

REMARKS

Claims 1-102 are pending. Claims 1-42 and 66-99 are withdrawn. Claims 43-65 are rejected. Claim 100-102 are newly added.

Rejections under 35 U.S.C. 102(b)

Claims 43-65 are rejected under 35 U.S.C. 102(b) as being anticipated by Koulik (US 6,270,788).

Claim 43 defines an implantable device which comprises a coating. The coating comprises a biocompatible polymer having a biodegradable or nondegradable polymer backbone, phospholipid moieties and a bioactive agent. The phospholipid moieties are phosphoryl serine, phosphoryl inositol, di-phosphoryl glycerol, zwitterionic phosphoryl ethanolamine, or combinations thereof.

Koulik describes an implantable medical device having a copolymer coating. The copolymer coating is synthesized using a first monomer having methacrylate or acrylate monomers, a second monomer having a primary amino group and a third monomer having acrylic or methacrylic phosphoryl choline. However, Koulik does not describe a coating having a polymer that includes **phosphoryl serine, phosphoryl inositol, di-phosphoryl glycerol, zwitterionic phosphoryl ethanolamine, or combinations thereof** as required by claim 43.

Therefore, Koulik cannot anticipate claim 43 of the present invention. Accordingly, claim 43 is patentably allowable over Koulik under 35 U.S.C. 102(b). Claims 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65 and 65 depend from claim 43 and are patentably allowable over Koulik under 35 U.S.C. 102(b) for at least the same reason.

The newly added claims 100-102, all recite a polymer that is not described in Koulik and are patentably allowable over Koulik.

Rejections under 35 U.S.C. 102(e)

Claims 43-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Hilborn (WO 2004/021976).

As discussed above, claim 43 defines an implantable device which comprises a coating. The coating comprises a biocompatible polymer having a biodegradable or nondegradable polymer backbone, phospholipid moieties and a bioactive agent. The phospholipid moieties are selected from the group consisting of phosphoryl serine, phosphoryl inositol, di-phosphoryl glycerol, zwitterionic phosphoryl ethanolamine, and combinations thereof.

Hilborn discloses a polymer compound having at least one biodegradable polyester and a terminal functional group based on hydrophilic moieties of phospholipids. The terminal functional group can be **phosphatidyl choline, phosphatidyl ethanolamine, phosphatidyl serine**, ammonium salts, carboxylic acid or carboxylate, phosphonic acid, phosphate, phosphonate, sulphonate, sulphonic acid, peptide nucleotide or carbohydrate. However, Hilborn does not describe or teach **phosphoryl serine, phosphoryl inositol, di-phosphoryl glycerol, zwitterionic phosphoryl ethanolamine, or combinations thereof** as defined by claim 43.

Therefore, Hilborn cannot anticipate claim 43 of the present invention. Accordingly, claim 43 is patentably allowable over Hilborn under 35 U.S.C. 102(b). Claims 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65 and 65 depend from claim 43 and are patentably allowable over Hilborn under 35 U.S.C. 102(b) for at least the same reason. The newly added claims 100-102 are patentably allowable over Hilborn for the same reasons.

CONCLUSION

Withdrawal of the rejections and allowance of the claims is respectfully requested.

Should the Examiner have any questions or concerns, the Examiner is invited to contact the undersigned attorney/agent of record at the telephone number shown below.

Respectfully submitted,

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Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza
Suite 300
San Francisco, CA 94111
Facsimile (415) 393-9887
Telephone (415) 393-9885 (direct)
Telephone (415) 954-0200

Zhaoyang Li, Ph.D.
Reg. No. 46,872